



Rule Fact Sheet

March 15, 2011

**NEW RULES AND AMENDMENTS TO 329 IAC 3.1 CONCERNING
TEMPORARY STORAGE AND MANAGEMENT OF SPENT LEAD ACID
BATTERIES**

LSA Document #09-365

Overview

Provides requirements for the management of temporarily stored spent lead acid batteries, including transportation and storage by retailers, wholesalers, manufacturers, storage facilities and reclamation facilities, to prevent releases of contaminants into the environment. Intermittent storage of partially reclaimed spent lead acid batteries is also proposed to be regulated.

Citations Affected

Amends 329 IAC 3.1-11-2

Adds 329 IAC 3.1-11.1

Affected Persons

This rulemaking affects retailers, wholesalers, manufacturers, storage facilities, reclamation facilities, and transporters who temporarily store spent lead acid batteries, or partially reclaimed spent lead acid batteries.

Reason(s) for the Rule

This rulemaking would make the existing requirements consistent with the actual practices at regulated entities, while addressing management of spent lead acid batteries, and clarifying the existing rules.

Economic Impact of the Rule

Implementation of this rule will generally result in minimal fiscal impact on affected parties. In fact, this rulemaking may result in reduced costs through the allowance for staging for spent lead acid batteries, which would reduce double handling of spent lead acid batteries. The 14 day staging period

would significantly reduce, or eliminate the need for entities to construct additional or larger storage areas for incoming spent lead acid batteries. IDEM will not have to hire additional staff for compliance and enforcement purposes and will be able to utilize existing resources to administer the rule.

Benefits of the Rule

This rulemaking provides management of temporarily stored spent lead acid batteries, so as to prevent releases of contaminants into the environment. This rulemaking may result in some savings for entities through allowance for staging of spent lead acid batteries. It also makes the existing requirements consistent with the actual practices at regulated entities and clarifies the existing rules so as to make compliance easier for the regulated entities.

Description of the Rulemaking Project

The proposed rule would provide requirements for the management of temporarily stored spent lead acid batteries, including transportation and storage by retailers, wholesalers, manufacturers, storage facilities, and reclamation facilities, to prevent releases of contaminants into the environment. Intermittent storage of partially reclaimed spent lead acid batteries is also proposed to be regulated.

IDEM has largely replaced the adopt by reference format for federal requirements in the existing rule with the full text rule language in this proposed rule. IDEM is adding some basic, common sense management requirements to address issues IDEM inspectors have observed over the years. These issues involve interpretation of existing rules and

actual management practices. References to Indiana statutory requirements applicable to spent lead acid battery handlers have also been added to the rule to ensure persons subject to those requirements are aware of them.

IDEM has added definitions and management standards to clarify regulatory requirements, and as necessary to address the new temporary staging requirements. Under the new temporary storage requirements reclaimers will be allowed to stage whole spent lead acid batteries on incoming trailers for up to 14 (fourteen) days on an asphalt or concrete surface maintained in good condition provided the reclaimers comply with basic inspection and maintenance requirements.

IDEM has added a notification requirement in this rule for intermediate storage facilities that accumulate more than 5,000 (five thousand) kilograms of spent lead acid batteries. This requirement is consistent with the notification requirements for large quantity handlers of Universal Waste 329 IAC 3.1-16 under current rules.

Language has been added to clarify closure and corrective action requirements for permitted and unpermitted storage areas.

Requirements for transporters of spent lead-acid batteries are also being clarified under this proposal.

Scheduled Hearings

First Public Hearing: March 15, 2011, at 1:30 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A.

Second Public Hearing: To Be Determined.

Consideration of Factors Outlined in Indiana Code 13-14-8-4

Indiana Code 13-14-8-4 requires that in adopting rules and establishing standards, the board shall take into account the following:

- 1) All existing physical conditions and the character of the area affected.
- 2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
- 3) Zoning classifications.
- 4) The nature of the existing air quality or existing water quality, as appropriate.
- 5) Technical feasibility, including the quality conditions that could reasonably be achieved through coordinated control of all factors affecting the quality.

6) Economic reasonableness of measuring or reducing any particular type of pollution.

(7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to:

(A) human, plant animal, or aquatic life; or

(B) the reasonable enjoyment of life and property.

Consistency with Federal Requirements

The new/amended rules are consistent with federal laws.

Rulemaking Process

The first step in the rulemaking process is a first notice published in the *Indiana Register*. This includes a discussion of issues and opens a first comment period. The second notice is then published which contains the comments, the departments responses from the first comment period, and the draft rule. A notice of first meeting/hearing is printed in the *Indiana Register* at the same time, or at a later date, as the case may be. The Solid Waste Management Board holds the first meeting/hearing and public comments are heard. The proposed rule is published in the *Indiana Register* after preliminary adoption along with a notice of second meeting/ hearing. If the proposed rule is substantively different from the draft rule, a third comment period is required. The second public meeting/hearing is held and public comments are heard. Once final adoption occurs, the rule is reviewed for form and legality by the Attorney General, signed by the Governor, and becomes effective 30 days after filing with Legislative Services.

IDEM Contact

Additional information regarding this action may be obtained from Kiran Verma, Rules Development Branch, Office of Legal Counsel (317) 232-8899 or (800) 451-6027 (in Indiana). Technical information regarding this action may be obtained from David Berrey, Office of Land Quality, (317) 234-6949 or (800) 451-6027 (in Indiana).